ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Keene	Analyst: LuAnna Hass	Bill Number: ACAX(5) 4	
Related Bills: See Legislative History	Telephone: 845-7478	Introduced Date: November 25, 2003	
	Attorney: Patrick Kusiak	Sponsor:	

SUBJECT: Expenditures Limit/Issuance Of Rebates

SUMMARY

This measure would provide that, upon the passage of future enabling legislation, excess revenues may be appropriated in the form of rebates to the taxpayers of California.

This analysis will not address the changes the measure would make to the other provisions of the California Constitution regarding various appropriations spending limits, as they do not impact the department or state income tax revenue.

PURPOSE OF THE BILL

It appears the purpose of this measure is to create structured spending limitations for the revenues of the State.

EFFECTIVE/OPERATIVE DATE

This measure would become effective the day following approval by the voters in the next statewide election, which would be the primary election in March 2004, if such approval occurs. The article added by this provision would become operative only if the California Deficit Recovery General Obligation Bond Act of 2004 is submitted to and approved by the voters at the March 2, 2004, statewide election.

POSITION

Pending.

ANALYSIS

STATE LAW

Under the California Constitution, the voters of the State have the authority to approve or reject any amendments to the State Constitution. Private citizens or groups can initiate amendments or the Legislature may place an amendment on the ballot if the proposal passes each house by a two-thirds vote. The Legislature proposes amendments to the California Constitution by passing a Senate Constitutional Amendment (SCA) or an Assembly Constitutional Amendment (ACA). Neither an SCA nor an ACA require the approval of the Governor. After the Legislature approves an SCA or ACA by two-thirds vote in the Senate and the Assembly, it is assigned a proposition number and placed on a statewide ballot for the voters to approve or reject the proposed change. Any amendment to the Constitution proposed by the Legislature and adopted by a majority vote of the people takes effect the day after its adoption.

Board Position:				Department Director	Date
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Currently, specific provisions of Article XIIIB of the California Constitution:

- Prohibits a government entity's annual appropriation from exceeding its annual limit, which is adjusted annually for the cost of living and population changes.
- Provides that:
  - 50% of the excess revenues that are received by the State in a fiscal year, which is in excess of the amount that may be appropriated by the State for that same fiscal year, are transferred to the State School Fund.
  - The remaining 50% of the excess revenues must be returned by the State by revising tax rates or fee schedules within the next two subsequent fiscal years.

THIS BILL

This bill would create a Budget Stabilization Fund within the State Treasury. Any excess General Fund revenues of a fiscal year would be deposited into the Budget Stabilization Fund and the unexpended balance, including interest, would carry over from one year to the next. This measure would provide that, upon the passage of future enabling legislation, excess revenues in the Budget Stabilization Fund may be appropriated for the following purposes:

- To provide rebates to the taxpayers of California.
- To provide for payments on state deficit financing bonds.
- For expenditures relating to an emergency declared by the Governor.

The provisions of this measure are deemed, in the event of any conflict, to supersede the provisions of Article XIII B, as described above under "State Law."

IMPLEMENTATION CONSIDERATIONS

As written, this measure would have no immediate impact on the department because this measure provides that enabling legislation would be necessary to allow rebates to the taxpayers of California. When enabling legislation is introduced to provide rebates to the taxpayers of California, as described above, the department would analyze and create an implementation strategy at that time.

LEGISLATIVE HISTORY

SCAX(5) 2 (Brulte, 2003/2004), which is identical to this measure, is at the Senate Third Reading.

ACAX(5) 2 (Campbell, 2003/2004) would require FTB to issue rebates of excess revenues to personal income taxpayers in the form of a nonrefundable tax credit. This measure is with the Assembly Elections, Redistricting, and Constitutional Amendment Committee.

ACA 6 (Campbell, 2003/2004) generally would require FTB to issue rebates of excess revenues to personal income taxpayers. This measure is with the Assembly Education Committee.

ACA 12 (Leslie, 2003/2004) would amend the California Constitution to remove the requirement that a portion of the excess revenues received by the State in a fiscal year must be returned by revising taxes or fees. This measure is with the Assembly Revenue and Taxation Committee.

SCA 3 (McClintock, 2003/2004) would require FTB and the State Controller to issue rebates of a portion of the revenues received by the state in excess of the amount appropriated by the State during the fiscal year. This measure is with the Senate Revenue and Taxation Committee.

ACA 22 (Campbell, 2001/2002) would have required FTB and the State Controller to issue rebates of a portion of the revenues received by the state in excess of the amount appropriated by the State during the fiscal year. This measure died at the Assembly Desk.

SCA 16 (McClintock, et al., 2001/2002) would have required FTB and the State Controller to issue rebates of any revenues received by the state in excess of the amount appropriated by the State during the fiscal year. This measure failed passage with the Senate Revenue and Taxation Committee.

A version of AB 2869 (Machado, Stats. 2000, Ch. 977) prior to enactment would have authorized a sales and use tax rebate to qualified taxpayers of $50 or a variable amount based on the taxpayer's filing status and federal adjusted gross income. This provision was removed from the bill.

AB 2609 (Stats. 1987, Ch. 915) and SB 47 (Stats. 1987, Ch. 908) authorized a tax rebate of excess funds for the 1986 taxable year. Qualified taxpayers were allowed a tax rebate of 15% of the tax imposed by the income tax law, as defined, with specified minimum dollar limits and maximum dollar limits. The rebate was calculated and administered by FTB and required rebate checks to be sent by the Controller to taxpayers by January 15, 1988.

OTHER STATES' INFORMATION

A review of the state laws and Constitutions of *Florida, Massachusetts, Michigan,* and *Minnesota,* found the following:

- *Florida* and *Minnesota* require excess revenues to be refunded to the taxpayers.
- *Massachusetts* allows a credit, called the "excess revenue credit," toward taxpayers' personal income tax liabilities.
- *Michigan* requires excess revenue to be refunded on a pro rata basis that is based on the liability reported on the Michigan income tax and single business tax returns.

A review of *New York* and *Illinois* state laws and Constitutions did not produce any information regarding procedures for excess revenues. The laws of these states were reviewed because of similarities to California income tax laws.

FISCAL IMPACT

This bill would have no identifiable revenue impact under the PIT and Corporation Tax Laws.

ECONOMIC IMPACT

This measure would not impact personal income tax and corporate tax revenues.

ARGUMENTS/POLICY CONCERNS

Other methods are available to rebate excess State revenue that may be accomplished more efficiently, such as a change in 1) tax rates, 2) taxable income brackets, or 3) the standard deduction.

LEGISLATIVE STAFF CONTACT

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